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SUMMARY RECORD OF THE 214th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 24 May 1995, at 10 a.m.

Chairperson: Mrs. BELEMBAOGO

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Canada

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The meeting was called to order at 10.10 a.m.

CONSIDERATION OF REPORTS OF STATES PARTIES (agenda item 5) (continued)

Canada (CRC/C/11/Add.3; CRC/C.9/WP.1)

1. At the invitation of the Chairperson, the members of the delegation of Canada took seats at the Committee table.

2. The CHAIRPERSON welcomed the delegation of Canada and invited it to introduce the Canadian report (CRC/C/11/Add.3).

3. Mr. McALISTER (Canada) congratulated the Chairperson on her election to office. He reiterated his delegation's desire to cooperate with the Committee in its important work. The delegation contained a number of experts on the various issues affecting children. Several of the experts had participated directly in the preparation of the report. He reaffirmed Canada's strong commitment to the protection and promotion of human rights within Canada and around the world. Canada had a long tradition of active participation in the promotion of human rights, of which it was duly proud. It was committed to continuing that tradition. For countries dedicated to the protection of human rights there could be no higher duty than the preservation of the rights of children. Most adult Canadians were parents and wanted to create an environment where children could grow up and feel that they were valued, cared for and adequately supported. They must enjoy an adequate standard of living, free of violence and abuse, where they could develop their talents and skills to the maximum extent. A recent survey found that 96 per cent of Canadians were concerned about the problems currently facing children. No other issue in the country commanded the same degree of commitment and concern.

4. It was that commitment and concern which had lain at the heart of Canada's initiative in co-hosting the World Summit for Children in 1990. Canada was proud of the role it had played, together with like-minded countries from all regions, in drafting the Convention on the Rights of the Child. The values espoused in the Convention were fundamental elements of Canada's domestic social policies, as was the protection of children and other vulnerable populations. The uncommon speed with which the world community had subscribed to the Convention had been noted, but satisfaction would not be complete until adherence to the Convention was universal.

5. Canada was blessed with a high quality of life. However, not simply material wealth was involved; Canadians insisted that their Governments paid close attention to the quality of their society. For example, the share of GNP devoted by Canada to education was one of the highest among OECD countries. Schooling was compulsory up to the age of 16 and free up to the completion of secondary education. Canada offered universal health care free of charge, and programmes were in place to meet the fundamental needs of all residents. Canada was a huge country, where economic, social and cultural conditions varied enormously between the different regions. In their areas of competence, provincial and territorial governments were required to translate their common adherence to fundamental principles and standards concerning the rights of the child into practical measures best designed to meet the particular needs of different regions and communities. For that reason, the

Canadian report contained individual chapters devoted to federal measures and to those undertaken in the provinces and territories. Canada did its utmost to safeguard the rights of children, but it could not claim to have resolved all its problems. Children in Canada still fell victim to ill-treatment, negligence and indifference. Serious debate was continuing on the best way to guarantee an adequate standard of living for individuals and for families. Canada was certainly not immune to the harsh economic and social changes affecting almost all countries in the world. Those changes affected all Canadian citizens, including children.

6. In the economic sphere Canada was confronted with serious fiscal pressures. It did not have the necessary resources to attain all its objectives. The recent recession had taken a particularly heavy toll: it had produced record budgetary deficits at all levels of government. Since Canada was increasingly obliged to borrow on foreign capital markets simply to pay the interest charges on its national debt, it was clear that the country was on an unsustainable course. Twenty years previously Canada's debts had stood at about $25 billion. In 1994 they had exceeded $500 billion and Canada had paid out $44 billion in interest charges. Five per cent of national income had been drained off to foreign countries to repay the interest on its borrowings. The deficit represented borrowings made to cover past consumption. The borrowings weakened the investment that would otherwise act as a boost to the country's economic potential. It was as if the children of the country were inheriting a gigantic mortgage without actually receiving a house. Canada's social programmes were at the centre of its social fabric. They would have run into serious trouble had it not been for the decisive action taken to avert the looming fiscal crisis. In the budget introduced in February 1995 his Government had announced some very tough spending reduction targets. The budgets of government departments were being reduced dramatically, in several cases being halved over the forthcoming three-year period.

7. Nevertheless, the commitment to Canada's children remained as strong as ever. Every effort had been and would be made to maintain and improve their health, education and well-being. In introducing his budget, the Finance Minister had made it clear that the criteria of the Canada Health Act would be maintained - universality, comprehensiveness, accessibility, portability and public administration. For other social programmes the Federal Government would be inviting all provincial governments to work together on developing, through mutual consent, a set of shared principles and objectives that could underpin the new Canadian social transfer, which was to replace the current system of federal government transfers to the provinces and territories. In addition, the Government would continue to ask the provinces to provide social assistance to applicants without minimum residence requirements.

8. The primary reason for child poverty in Canada was the loss of labour-market income by the children's parents. The best way to ensure that children did not grow up in poverty was for their parents to have stable incomes. Therefore, in the current restructuring of Canada's social programmes, the federal Government had two basic objectives - getting people back to work and tackling family and child poverty. Although the provision of social services, including those for children and families, was primarily a

provincial responsibility, the federal Government was also committed to improving access to quality child care. It was discussing possible joint investments with provincial and territorial governments.

9. In addition to economic pressures, profound social change was also having a critical impact on how Canada looked after its children. There had been a marked growth in single-parent families, particularly those headed by mothers. A major problem was the failure of non-custodial parents to make an adequate contribution to the cost of raising their children. Federal, provincial and territorial Ministers of Justice had just released a joint report on child support. The report recommended the implementation of child support guidelines as an alternative to the current system of determining child support. It provided directions for the development of a national support enforcement strategy.

10. Alongside the review process, a Family Support Enforcement Fund of $5 million over five years helped provincial and territorial governments to improve the exchange of information on enforcement matters, to develop new legislative remedies, to improve computer systems and also to raise public awareness of the importance of family support orders in the well-being of children affected by divorce and separation.

11. New initiatives had recently been taken in youth justice reform, a subject of concern to the Committee on the Rights of the Child. The first of the initiatives was Bill C-37 to amend the Young Offenders Act and the Criminal Code. The Convention had been taken into account in drafting the amendments. The Bill sought to promote the use of alternatives to placing juveniles in police custody by encouraging approaches at the community level. It supported the principle contained in the Convention of using custody only as a last resort in dealing with young offenders. However, the Bill also had to strike a balance between the protection of minors and the protection of the public. That was not easy, especially in an atmosphere of heightened public concern about violent juvenile crime. Some members of the public considered that punishments for young offenders committing violent crimes were not severe enough.

12. The Committee had questioned Canada's reservation concerning article 37 (c) of the Convention. Canada was currently engaged in a comprehensive review of its youth justice system, in particular the question of placing youngsters in adult systems. A number of provinces, including Quebec, were actively studying how best to deal with young offenders. The National Crime Prevention Council focused primarily on youth and indicated Canada's commitment to the Convention. His Government was convinced that crime prevention must be an integral component of an effective juvenile justice system.

13. In the health sector, the most effective investments were in the form of population health strategies designed to have a direct impact on the health and well-being of specific populations. One such strategy was the Community Action Programme for Children. The Programme funded community groups to establish and deliver services to meet the health and development needs of

children under the age of seven at risk. The services were based on research which had indicated that early intervention and development assistance could have profound and positive long-term effects on children.

14. Canada's report underlined the particular problems facing Aboriginal children and families. Out of the figure of just over 1 million self-identified Aboriginal people in Canada, more than 350,000 were under 15 years of age. His Government's spending on Aboriginal programmes had more than doubled since 1983. However, too many Aboriginal children still lived in poverty. Much more needed to be done to improve conditions in many Aboriginal communities and to build on the efforts of the past 25 years to raise the standard of living of Aboriginal people. One of the best ways to help Aboriginal children overcome disadvantage was through increased education. School enrolment rates for Aboriginal children were rising.

15. Improvements were also being made in child care. In 1995 his Government had announced a new initiative to support Indian and Inuit communities in improving child-care services. Over the forthcoming three-year period, $72 million would be provided for 6,000 quality child-care spaces for Indian and Inuit communities. That was comparable to the availability of child-care spaces in the broader community. The Government was launching an Aboriginal Head Start Initiative for preschool Aboriginal children living in urban centres in large northern communities. The goal of Aboriginal Head Start was to enhance parental and community involvement with children by engaging them directly in the design and implementation of projects. The initiative would provide comprehensive early interventions designed to give children a positive sense of themselves, a desire for learning and opportunities to develop fully as young people. It would empower Aboriginal communities by building on Aboriginal people's ideas, interests and commitment to positive change.

16. Family violence was another area where involving the Aboriginal communities was the key to reducing its impact on children. Under the umbrella of Canada's Family Violence Initiative, several federal agencies were working to address the problem and would continue to provide $12.3 million a year. Similarly, the Federal Government worked with First Nations and Inuit people in finding long-term solutions to the serious and complex problem of solvent abuse. Six permanent national solvent abuse treatment centres would be established across the country. Pre-treatment and post-treatment would be offered at the community level. The continued-care approach would help youth, families and communities.

17. It was clear that money alone could not resolve the many interconnected problems facing Aboriginal communities and children. Broader community involvement was essential in order to give people their own means to identify and resolve their problems and to ensure that strategies and solutions were firmly rooted, where appropriate, in Aboriginal traditions and cultures. In addition to communities assuming responsibility and management of programmes self-government arrangements for Aboriginal groups were being encouraged. Self-government could encompass a broad range of matters, including those central to Aboriginal cultures, traditions and languages, as well as other areas such as land and resources. The final report of the Royal Commission on Aboriginal People, entrusted with the broad mandate of studying all aspects of

Aboriginal life in Canada, was soon to be published. It was expected that the report would make additional recommendations on measures to improve the situation of Aboriginal communities in Canada.

18. His Government believed that the population must, as a matter of course, be informed of the rights of the child so as to promote and protect them. Great efforts had been made to increase awareness of the Convention and to encourage public debate on its content and on the commitments it embodied. A particularly successful initiative was the production, by the National Film Office of Canada, of a series of films inspired by the Convention entitled "Rights to the heart". The first series, made up of seven short video presentations, was addressed to children between the ages of five and seven. It dealt with various rights, such as the right to learn with dignity and the right to respect. The series was available in more than 40 countries. The second series, addressed to children between the ages of 8 and 13, had just been released. The third, directed towards children between the ages of 14 and 17, was in production. In addition, video clips in Aboriginal languages were being prepared.

19. To celebrate the anniversary of the adoption of the Convention, the Canadian Parliament had proclaimed 20 November National Children's Day. The previous two annual celebrations had been marked by numerous activities in all communities in Canada. In 1994, the International Year of the Family, National Children's Day had honoured children and families. The link between children's health and family stability had been highlighted by a special conference for the International Year of the Family held in June 1994 in Victoria (British Colombia). The Conference had drawn attention to a number of national and international programmes for children and their families which successfully applied the principles of the Convention. It had been an important occasion for youngsters throughout the world to get together and to discuss common concerns. The Convention had been on the Conference agenda and Canada's initial report had been widely distributed to promote further discussion.

20. Canada's commitment to children went beyond its national borders. A document published in 1995, entitled "Canada's foreign policy, Canada in the world", highlighted the reduction of poverty through sustainable development. Twenty-five per cent of the funds devoted to official development assistance were designed to meet the fundamental needs of human beings: primary health care, basic schooling, family planning, nutrition, water supply, public hygiene and housing. The 1995 foreign policy document was also remarkable in that for the first time it placed Canada's commitment to children among its development priorities. The promotion of children's rights stood alongside the strengthening of civil society, the protection of individual security, the defence of democracy and effective government.

21. Those values were clearly reflected in the Partners for Children Fund, a federal government initiative. The $16 million Fund utilized Canadian expertise to identify and test new approaches for the promotion of children's health and for the well-being of vulnerable children around the world. It addressed a wide range of conditions threatening their health and well-being, from armed conflict to homelessness, substance abuse, environmental degradation and marginalization. The Fund allocated money to Canadian

non-profit organizations, educational institutions and professional associations to develop projects to find new ways to tackle problems facing children. All the projects were designed to involve children in their planning and implementation and to enable the children to share the knowledge acquired from the projects.

22. The Canadian report reflected the extensive consultations which had taken place. Each of Canada's 10 provinces and 2 territories had prepared its own portion of the report or had extensively reviewed the sections of concern to it. In preparing the federal portion, the Government of Canada had conducted extensive consultations with NGOs. Such consultations had also been carried out with a number of national organizations representing Canada's Aboriginal communities.

23. Implementation of various human rights instruments, including the Convention on the Rights of the Child, was monitored on an ongoing basis through the federal, provincial and territorial Continuing Committee of Officials on Human Rights. In the report, Canada had tried to adopt a comprehensive and frank approach. The failures and shortcomings which existed had not been concealed. Canada sought the advice of the Committee and was eager to learn from the experience of other countries. The experts on various issues would respond directly to questions in their areas of competence.

24. The CHAIRPERSON thanked the representative of Canada for responding to the Committee's invitation. Canada was represented by a strong intersectoral delegation and had submitted a very useful initial report on the implementation of the Convention, as well as written replies to the Committee's preliminary questions. The report highlighted Canada's commitment to the promotion of the rights of children at the national and international levels and also provided general information on the economic and social situation. Canada had recently adopted new initiatives and the Committee was fully prepared to exchange views on the list of issues (CRC/C.9/WP.1).

25. Mr. KOLOSOV requested information on the federal structure and the competence of provinces and territories in Canada. Were the provinces and territories subjects of international law? If not, what limited competence in the sphere of international relations did the provinces and territories have under the national Constitution?

26. Mrs. BADRAN acknowledged the important role played by Canada at the national and international levels: it was one of the six countries which had called for the World Summit for Children. It had expressed reservations regarding articles 21 and 37 (c) of the Convention. She requested an explanation of Canada's statement that the customary forms of care for Aboriginal people would conflict with the terms of article 21. And it was not clear why article 37 (c) did not apply to children aged 18 years or over.

27. Mr. HAMMARBERG said that some of the issues to be discussed in the Committee had also been partly considered by the Committee on Economic, Social and Cultural Rights. It would be helpful if the Committee could have a brief summary of the Canadian Government's response to the points that had been made concerning children by the Committee on Economic, Social and Cultural Rights, which in its concluding observations had welcomed some of the steps taken by

Canada to prevent child abuse and to improve the situation with regard to infant mortality. However, concern had also been expressed about the persistence of child mortality among part of the country's population.

28. He recognized the problems that Canada and other affluent societies had with regard to financial restraints but thought that, in discussing such matters, the Committee should refer to article 4 of the Convention, under which States parties were required to undertake measures to the maximum extent of their available resources for the implementation of the rights recognized in the Convention. He would like to know to what extent Parliament had considered the budget earlier in the year in the light of that criterion. That article was most relevant in a crisis situation such as that faced by Canada at the present time.

29. He would also welcome information on the methods envisaged by Canada to ensure that all parts of the country attained the standards of the Convention. It was not clear what role the Children's Bureau, which had been established in 1991, would actually play and what type of monitoring between the various levels of administration was envisaged. Lastly, he asked what the Government was doing to ensure that professionals were fully briefed concerning the importance of realizing the rights of children.

30. Mrs. SANTOS PAIS paid tribute to the leadership demonstrated by Canada and welcomed the fact that the country had been able to ratify the Convention at an early stage despite its complex federal system. The Committee always referred to the question of reservations because it wished to encourage not only the universal ratification of the Convention, but also the universal acceptance of its contents. The reason given for maintaining the reservations had been the fact that consultations had been held with regional Aboriginal groups. In that connection, article 21 specifically contained a list of safeguards and article 20, paragraph 3, had been drafted to take into account the kind of protection that should be enjoyed by children.

31. Referring to paragraph 70 of the report of Canada (CRC/C/11/Add.3), she asked why, if national solutions were not satisfactory, there was a problem with the Convention. In that connection, the best interests of the child should be the primary consideration. She was troubled by the reference to young people older than 18 because the Convention was intended to apply to young people below the age of 18. Therefore, if the reservation was necessary for those who were not addressed by the Convention, there was no need to maintain it.

32. The Convention encouraged States to take the best interests of children into consideration. In that connection, it sought to ensure that children were kept separate from adults either in the same building or in a different building. She wondered whether the reservation was still required. If the reservation sought to protect children over 18 years of age, article 41 could possibly provide a solution to the problem.

33. The implementation of the Convention was a long process. She would like to know what follow-up there had been to the suggestions made by the NGOs and Aboriginal communities. She would also welcome information on how

coordination took place within the complex structure of a federal State and would also like to know what was the role of the Children's Bureau. With regard to the information and training programme, she asked whether it was envisaged as a process not only to reinforce the level of implementation of the Convention, but also to prevent violation of the rights of the child.

34. Mr. MOMBESHORA noted that when Canada had ratified the Convention, it had done so on behalf of all the provinces and territories of Canada. The report gave the impression that, although there was consultation between the various provinces and territories, they tended to act on a semi-independent basis. He would like to know to what extent the Federal Government could influence the various provinces in terms of introducing or amending legislation in various areas where the Committee might express concern about the plight of children.

35. Mrs. KARP noted that the report included information concerning all the provinces. Canada was a federal entity and the provinces had specific jurisdictions. She understood that social programmes were under the jurisdiction of the provinces and that criminal law came within the jurisdiction of the federal authorities. She would like to know whether, because of the priority position of the federal provinces, a child's status could vary from one province to another as a result of the existence of different policies in social matters.

36. She would also welcome information on the work of the Continuing Committee of Officials on Human Rights and on whether there were any plans to coordinate the implementation of international instruments such as the Convention, which had not been incorporated into law in Canada.

37. Mr. DUERN (Canada) said that the role of provincial and territorial governments was of the greatest importance. However, the Federal Government had exclusive competence with regard to the ratification of international instruments as a result of a decision taken by the Privy Council of the United Kingdom in 1936. Under that decision, the Federal Government could not under law compel the provinces to adopt measures in areas falling within their exclusive competence. As a result, a mechanism had been developed based mainly on consultations between the governments. Through agreement between the federal, provincial and territorial governments, before a human rights instrument was ratified consultations must be held to determine whether the various jurisdictions were in conformity with the Convention. If areas were identified that seemed to indicate the existence of non-conformity, the provincial and territorial governments would be asked whether they agreed to make the necessary modifications. It was only after overall agreement had been reached that ratification took place.

38. With regard to the implementation of conventions, the Continuing Committee held formal meetings twice a year but there were also ongoing consultations. Its membership consisted of representatives of each jurisdiction of the respective governments and it had facilitated the preparation of reports to United Nations Committees on Canada's implementation of its international human rights obligations.

39. It was very unlikely that an international instrument would be ratified by the Federal Government without a consensus in support of it among the provincial and territorial governments. The question concerning the consequences of a refusal by a provincial or territorial government to implement a ratified international instrument was hypothetical, since no such case had ever occurred. In one province, namely Alberta, the government had not formally supported ratification of the Convention on the Rights of the Child on the grounds that to do so might compromise parental rights. However, legislation in that province now conformed fully with the Convention and the provincial authorities had cooperated in the preparation of the present report and the replies to the Committee's earlier questions.

40. With regard to the possibility of violations of the Convention by individual provinces, he pointed out that safeguards already existed in the form of the Canadian Charter of Rights and Freedoms and the human rights commissions, even though the Convention did not form part of the fabric of Canadian law.

41. Mr. HAMMARBERG suggested that the question regarding non-implementation by a provincial government was not, after all, hypothetical: the scope of the Convention was not purely legalistic but covered a society's basic values, principles and social policies. How, for example, was it possible to be sure that provincial parliaments and local communities placed the basic principles of the Convention, such as the primacy of the child's best interests, at the centre of their own decision-making? With regard to new legislation which would entail further decentralization in the decision-making process, was it possible to ensure that no disadvantage or discrimination would be suffered by children living in different areas because, for example, their provincial governments chose to spend their federal allocations in different ways? It was clear that efficient mechanisms for monitoring and harmonization were needed to ensure that the best interests of children were served irrespective of where they lived. It was also necessary to ensure that provincial governments bore full responsibility for implementing the terms of the Convention in their area of competence.

42. Mrs. KARP said that, while accepting that the Federal Government did not foresee any infringement of the Convention by the provinces, the real issue was one of social policy, which was determined largely by budget priorities. Was it not possible that substantial differences might arise in the status of children in different provinces in terms of social welfare and the interpretation of their rights under the Convention? If that were the case, how would the Canadian authorities deal with the problem?

43. With regard to the legal status of the Convention, she noted that it was not the provincial governments which ratified the Convention; that suggested that the courts in the provinces could not cite the Convention in their rulings. How did the Canadian authorities intend to proceed with regard to the status of the Convention?

44. Mr. KOLOSOV noted that the provincial and territorial governments were not themselves subjects of international law under the present system of international relations and that the Federal Government, although empowered to ratify international instruments after due consultation with the provincial

governments, had no powers to compel the provincial authorities to comply with their provisions. That appeared to be at variance with the terms of the Vienna Convention on the Law of Treaties of 1969, which included a provision to the effect that no reference to domestic legislation might imply the possibility of non-fulfilment of the obligations of a State under the terms of a treaty which it had ratified. As far as he recollected, the Government of Canada had not entered any reservation to the terms of the Vienna Convention.

45. With regard to the obligations of State parties, he noted that under article 2 States parties were required to "respect and ensure" the rights of children under the terms of the Convention, irrespective of factors such as race, sex or "other status". He took that as implying that the Federal Government was obliged to ensure that equal protection was given to the rights of children in all the different provinces and territories. The Committee had been entrusted with the task of monitoring progress made by States parties in the implementation of the Convention and was therefore obliged to ensure that the Convention was applied throughout Canada, irrespective of regional differences.

46. Mrs. SANTOS PAIS said that she had two main comments to make regarding the replies of the Canadian delegation. First, while regional differences between different provinces and territories must be taken into account during the ratification process, the Federal Government was committed, once the Convention had been ratified, to enforcing the Convention's provisions throughout Canada, and was responsible for reporting to the Committee on implementation. Under article 4, States parties were obliged to adopt all appropriate legislative, administrative and other measures required to implement the Convention, and the Committee needed to know what mechanisms existed to ensure such implementation. While it was true that various human rights charters had existed in Canada before the Convention had been ratified, the Convention to some extent marked a new departure or new "common denominator". What mechanisms existed to ensure that real progress was being made in implementing it? How were data on implementation collected? Were there adequate means of overcoming existing disparities among different population groups and giving particular help to the most vulnerable groups?

47. Mr. McALISTER (Canada) suggested that attention needed to be focused primarily on whether Canada was fulfilling its obligations under the Convention, rather than on the ways and means by which it did so. While Canada was quite prepared to provide more information on, for example, coordination between the federal and provincial governments, the Committee would do well not to lose sight of the actual situation with regard to the rights of children in Canada which was very favourable. The federal system of government was a complex one which had developed over many decades, and under which the provinces had exclusive rights in certain areas of jurisdiction. Nevertheless, the commitment to human rights and, in particular, to the rights of children was universal throughout the country, a fact attested by the existence of various commissions and the Canadian Charter of Rights and Freedoms, and the overall level of protection for those rights was excellent.

48. Mr. DUERN (Canada) said that it was not quite true, as Mrs. Santos Pais had implied, that the Federal Government was the Committee's sole interlocutor for the purposes of monitoring implementation of the Convention, since each provincial and territorial government was responsible for compiling its own report.

49. Ms. McKENZIE (Canada) said that although the Convention had been ratified, it was not "self-executing" and its provisions were applied under Canadian law in two ways: first, by the good faith of the authorities at the federal level, who took the provisions of the Convention into consideration when drafting any new legislation with a bearing on young people, such as the new Young Offenders Act. That also applied in the arena of provincial government. The provincial governments had been consulted before ratification, and consultation continued through the Continuing Committee of Officials on Human Rights. Secondly, courts took the provisions of the Convention into account when interpreting domestic law, in particular, the Charter of Rights and Freedoms. On several occasions, the Supreme Court of Canada had cited particular articles of the Convention in its rulings on Charter cases, for example, the ruling that child witnesses in sex abuse cases must be allowed to present video-recorded evidence. There was thus an important legal mechanism by which the provisions of the Convention were implemented under Canadian law.

50. The CHAIRPERSON recalled that the questions put to the delegation had been prompted by article 4 of the Convention, which obliged States parties to undertake "all appropriate legislative, administrative, and other measures" to implement the Convention, and article 44, according to which the Committee might request "further information relevant to the implementation of the Convention". The Committee therefore had a mandate to investigate all the mechanisms set up to implement the Convention, not merely the legislative ones, with a view to formulating comments and proposals concerning any improvements that might be made.

51. Mrs. KARP asked whether at any time action by a Canadian court had resulted in the introduction of new provisions into a statute for the benefit of children.

52. Ms. McKENZIE (Canada) said that she thought it unlikely that new provisions would be enacted in that way; as a matter of general doctrine, domestic legislation was interpreted by the courts in a manner consistent with the terms of the Convention.

53. Mr. HAMMARBERG agreed that the Committee needed to keep in mind the overall situation in Canada with regard to children's rights, rather than focusing too narrowly on the mechanisms which existed to protect them, and noted the widespread support for human rights in Canada. However, although the Committee could not favour one particular legislative model for the implementation of the Convention or specify particular mechanisms and structures, it needed to assure itself that suitable mechanisms and structures were in place. The Government of Canada was now faced with the task of implementing the Convention at a difficult time of budget cuts and a trend towards decentralization in government, and the Committee wished for assurance that the fundamental principles of the Convention, notably the primacy of

children's interests, would always be at the centre of decision-making. Even in Canada the idea of the rights of the child was relatively new and to assume automatically that the principles of the Convention had already been implemented under Canadian law posed certain dangers.

54. Mrs. SANTOS PAIS agreed that, given the wide range of different administrative and legislative systems among the 174 States parties, the Committee was in no position to specify particular solutions. Indeed, a degree of diversity in the mechanisms set up to implement the Convention might lead to a degree of competition, which could be very beneficial. The important point was that the Convention should be the main benchmark and inspiration of action at the provincial and central levels, and that appropriate systems of, for example, information-gathering and assessment should be set up since, without such systems, it was impossible to know how effectively the Convention was being implemented.

55. Mrs. BADRAN said there was no doubt as to the goodwill of the Canadian Government, but agreed that the Committee needed to consider in some detail the means by which the Convention was implemented. While it was easy to agree on general principles, consideration needed to be given to the practicalities of implementation in order properly to understand the resources, financial and otherwise, which would be required. Only through such discussion could agreement be reached on the proper procedures.

56. Mr. DESLAURIERS (Canada), while agreeing that continuing vigilance was needed, said there could be no doubt regarding the widespread will of the Canadian authorities to implement the principles of the Convention, and that was all-important. Although implementation in practical terms posed a continuing challenge, provincial governments, including that of Quebec, were taking the Convention into consideration in drafting new legislation. For example, recent legislation in Quebec included specific references to the best interests of the child.

57. Where complaints had been made against Quebec through the complaints procedures available under the terms of certain international instruments, it was the provincial authorities which had formulated the replies. That was significant as an indicator of the degree of autonomous competence enjoyed by provincial governments in the implementation of international instruments. That autonomous function was also evident from the case of a recent complaint brought against the government of Quebec under the ILO Freedom of Association Convention. There, too, it was the Quebec authorities which had formulated observations on the complaint and transmitted them to ILO via the Federal Government.

58. The CHAIRPERSON invited the Committee to consider the reservations entered by the Government of Canada to articles 21 and 37 of the Convention.

59. Ms. WHITAKER (Canada) explained that the need for a reservation had arisen during the ratification process. Article 21 (a) of the Convention, according to which adoption should be authorized only by competent authorities, might have prevented custom adoption among certain indigenous communities. Consultations had taken place between federal, provincial and territorial authorities and a number of indigenous organizations before the

decision to enter a reservation had been taken. Custom adoption was an uncommon practice, and normally took place in certain indigenous communities within extended families, for example when a child was adopted by its grandparents. Such a practice might have been regarded as being at variance with the strict terms of article 21 (a) and the Canadian authorities had therefore considered it appropriate to enter a reservation.

60. With regard to the general principle that the best interests of the child must always be given primacy, she pointed out that, as the report and additional replies provided by the Canadian authorities had made clear, the best interests of the child were regarded as paramount in cases of adoption of indigenous children. Wherever possible, courts placed such children with families in their own community. In Alberta, for example, current policy was to make every effort to place indigenous children with families of their own ethnic and cultural background. Where that was not possible, foster parents were given appropriate training on relevant indigenous issues.

61. Mrs. SANTOS PAIS, referring to paragraph 40 of the Canadian report, said she did not understand why a reservation had been entered.

62. Mr. HAMMARBERG said he was impressed by the delegation's conscientious handling of the issues. As he interpreted the situation and the wording of the Convention, Canada's reservation was not necessary. A declaration, followed by an explanation of how Canada planned to implement the Convention, would have sufficed. The delegation's statements were not incompatible with the spirit of the article in question. Reservations should be made only in exceptional circumstances.

63. Ms. WHITAKER (Canada) said that her Government preferred not to make reservations to Conventions only after considerable discussion of the case in question had it been deemed appropriate to make a reservation.

64. Mr. McALISTER (Canada) emphasized that it was a fundamental principle that Canada would enter as few reservations as possible on international human rights instruments. When his Government did make reservations, they were based on substantive and extensive domestic consultation. His delegation had listened with great interest to the Committee and would look further into the issue, but he could not undertake to give an immediate response.

65. Ms. McKENZIE (Canada) said that one aspect of the reservation to article 37 (c) was reflected in the response to the list of issues. There had been a number of cases relating to article 37 (c) in Canada. Paragraphs 337 to 342 of the report outlined all the situations in which young offenders could be held with adults. The most interesting and topical case was that of "transferred young persons" (para. 342). As pointed out in the response to the list of issues, the question of the separate detention of young offenders was under consideration. The Federal Government was committed to a full-scale review of the youth justice system, which would include discussion of the placement of young offenders in adult systems. During the review, the Committee's comments on that issue would be brought to the attention of the authorities concerned.

66. The Committee had indicated its interest in knowing what other steps had been taken by her Government since the ratification of the Convention. Canada had in fact undertaken measures, based on article 37 (c), relating to the separate detention of young offenders. She referred to article 348 of the report, which described the situation prior to 1992. An amendment in that year had required courts to give specific consideration to the placement of transferred young persons convicted in adult courts in view of the factors outlined in paragraph 342. The Convention had been a key factor in the decision to amend the Young Offenders Act. There were, in fact, very few young offenders held in federal adult penitentiaries: as of February 1995, seven offenders under 18 years of age had been so held. The issue had attracted considerable attention and, while the Government did not plan to withdraw its reservation, it would be one of the questions considered in the review of the youth justice system.

67. The CHAIRPERSON said that the Committee would undoubtedly raise that issue again under the chapter relating to children in particularly difficult situations, bearing in mind the negative consequences of young people and adults being held together in penal institutions, and the principle of imprisonment of young persons as a last resort. The Committee would continue to examine the national structures established for the coordination and follow-up of the implementation of the Convention in Canada.

68. Mr. McALISTER (Canada), summarizing his delegation's position, said his colleagues had described the function of the committee established to discuss the implementation of human rights instruments. In addition, the provincial representative had spoken about the strong convictions held in the provinces with regard to human rights and their promotion and protection. He reiterated that Canada had a complex federal and provincial structure. Nevertheless, Canadians had a profound attachment to the principles of human rights, which extended to children's rights. His delegation would welcome further questions from the Committee on how his Government functioned.

69. Mrs. SANTOS PAIS, referring to paragraph 31 of the report, asked the Canadian delegation whether it did not feel a need to go further than the establishment of a committee on human rights instruments. Perhaps more contact than was possible in twice-yearly meetings was needed for officials to have an overall view of the situation of children and how the Convention was being implemented. She asked for precise information on the workings of the Children's Bureau. She asked how it functioned, how many people were involved, how often they met, and what were their programmes, time-frame and goals. Was the work of the Bureau geared mainly to the National Plan of Action or was it also geared to implementation of the Convention?

70. Mr. HAMMARBERG referring to the fact that earlier that year Canada had presented its budget, which had included cuts in social services. He asked what steps had been taken to ascertain that there would be no negative effects on the rights of children. Some countries had instituted special mechanisms to enable their parliaments to assess the impact of such decisions and to allow for remedial action to be taken where necessary. Perhaps an ombudsman or some other monitoring system could fulfil that role.

71. Ms. LAVIGNE (Canada) said the establishment of the Children's Bureau had been one of the first special measures adopted by the Government following ratification of the Convention. It had been established as a federal mechanism of coordination to ensure coherence and integration of the principles and provisions of the Convention within the policies and programmes of the Federal Government. Apart from its main task of coordination, the Bureau acted as an adviser to the Ministries and federal government bodies in the area of policy-making and in the development of programmes for young people. To a certain extent, it could be said that the Bureau was the spokesman for children within the Federal Government.

72. The Children's Bureau had participated in the preparation of a foreign policy statement adopted by the Government some months earlier and, through its participation, was able to ensure the inclusion of children's rights among the Government's foreign-policy priorities. The Bureau had also collaborated with the Ministry of Justice in reviewing draft legislation and had been particularly active in consultations on the Young Offenders Act. The Bureau and the Ministry of Human Resources were very involved in the reform of government policy and social programmes. It had, on several occasions, acted in conjunction with the Canadian Coalition for Children's Rights and other groups in the private and voluntary sectors.

73. While it was true that there was no ombudsman appointed specifically for children's affairs, such a mechanism existed in some provinces and it was evident there was much interest in follow-up mechanisms to assist victims of abuse.

74. Mrs. SANTOS PAIS reminded the Committee that the 1990 World Summit for Children had set the year 2000 as a target for the achievement of certain goals, a decision which had been a great source of encouragement for all participating Governments. She wished to know what time-limit had been set in Canadian national policy for the promotion and protection of children's rights. The dynamics of the promotion of children's rights needed to be taken into account and, if Canada actively pursued those goals, its example would serve as an inspiration to others.

75. Mrs. BADRAN asked where the Children's Bureau stood within the administrative structure and what type of staffing it had. Coordination was not easy because it involved many processes and was sometimes seen by different bodies as interference in their work. She asked how the Bureau facilitated its work, what tools it used, what obstacles it faced and how it overcame them.

76. Ms. LAVIGNE (Canada), responding to the questions asked by Mrs. Santos Pais on the Bureau's time-frame, expected results and their measurement said that those issues were very topical in Canada's public administration and the Government had adopted a results-based management policy. That new approach had been developed in order to teach government officials how to establish clear targets, improve their performance and facilitate the measurement of results. Older methods had not, however, been neglected. The new approach had also been adopted to provide methods of

evaluation of programmes initiated since the 1990 Summit. Approximately 30 programmes and projects targeted at young people had been established. The evaluation of those programmes was carried out in coordination with ministries, NGOs and the private sector where possible or appropriate.

77. With regard to results, she said that by 1996 a number of evaluations would have been made to provide guidance for future work. She expected that with the new methods in place, her delegation would be better equipped, when it met the Committee in five years' time, to give more accurate data on the results achieved.

78. On the question of administrative structure and human and financial resources, she admitted that coordination was often difficult and complex. The Children's Bureau was housed in the Ministry of Health and although there had been some reforms as a result of which the Ministry of Health had been separated from the Ministry of Social Welfare, there was constant, daily coordination between the Ministries. The Bureau had between 22 and 24 permanent posts, and experts and other personnel were recruited on contract to carry out specific tasks.

79. The challenges facing the Bureau were enormous in view of the vast geographical area covered. It could meet those challenges because all persons involved in the activities of the Bureau were firmly committed to the cause of children. It worked closely with NGOs and voluntary organizations to find solutions and to design and implement programmes.

80. The Bureau was actively promoting awareness of the Convention throughout Canada. A number of activities had focused on specific target groups, such as teachers and lawyers, and there was a project for the training of civil servants in various ministries. The objective of that project was to show civil servants how the Convention affected their work and decision-making.

81. Various media, such as video, television and radio, had been utilized. Apart from training and media promotion, there were many other activities being pursued in an effort to disseminate information on the Convention. Nevertheless, the Bureau felt it was at the beginning of a long process. In three to four years it had managed to establish a network of NGOs, professional organizations and other groups to ensure the broadest possible coverage.

82. Mr. McALISTER (Canada) informed the Committee that, within the framework of the training programme for foreign service officers, the Ministry of Foreign Affairs had introduced an intensive and comprehensive project on training in human rights issues and familiarization with the relevant instruments. The majority of diplomatic staff, particularly those in missions which did a considerable amount of human rights reporting, had received such training.

83. Mr. HAMMARBERG expressed appreciation for the presentation made by the delegation. Beyond what was already being done, there was need for a systematic and comprehensive approach to integrate the concepts of the rights of the child and the Canadian pledge to implement the Convention's standards

and principles in courses for professionals. Such a measure should include all groups, including law enforcement personnel. To that end, he recommended that the Government should coordinate a comprehensive strategy.

84. Mrs. SANTOS PAIS endorsed Mr. Hammarberg's recommendation and suggested that the principles of the Convention should be incorporated in school curricula. She was extremely impressed by what the delegation had said and suggested that the training of peace-keepers should not be overlooked.

85. Mr. HAMMARBERG observed that it was essential for personnel dealing with refugees to understand the implications of the Convention.

86. Mr. KOLOSOV said it was promising that Canada had plans for training and consciousness-raising in the area of children's rights. In order to embark upon such a project it was necessary to train the trainers. He inquired what centres existed for such training.

87. Ms. LAVIGNE (Canada) said that at the federal level there was a programme for training and the dissemination of information on the Convention. The Government worked closely with professional groups, universities, etc., mainly by providing funds to support projects. Priority had been given to the training of trainers and, inter alia, the University of British Colombia was undertaking a programme for the development and review of the teacher-training curriculum. Human rights training fell within the jurisdiction of the provinces. The Federal Government had endeavoured to use its network of contacts to ensure that work was carried out on curriculum development in several provinces. Although financial resources were not as substantial as it would have wished, the Government, with the support of other groups, was making a special effort to pursue those goals.

88. The CHAIRPERSON said the Committee on Economic, Social and Cultural Rights had, in its observations, raised the question of budgetary priorities and the special situation of poor children, particularly those in single-parent families. That issue could be taken up at the next meeting.

The meeting rose at 1 p.m.